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OPINION

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## REVIEW & OUTLOOK

### Bankruptcy and Abortion—II

**W**e've written before about Senator Charles Schumer's not-so-magnificent obsession with abortion and bankruptcy. He's at it again. The New York Democrat continues to play abortion politics with a promising bankruptcy bill.

*Senator Schumer wants to stifle peaceful protests.*

The legislation in question passed both the House and Senate in 1998 with bipartisan, veto-proof majorities. The bill would make it more difficult for borrowers to file for bankruptcy and thus evade debts that they can afford to pay. Banks, which lose millions of dollars each year to these Chapter 7 filers, favor the measure for obvious reasons. But consumers also stand to benefit from a crackdown, since they're the ones burdened with higher fees and interest rates to compensate lenders for revenue lost through defaults.

Congress passed the latest version early last year and it would be law today save for Mr. Schumer, whose agenda-laced rider on abortion has mired the bill in conference ever since. His amendment would prevent pro-life activists, and only them, from using bankruptcy to avoid paying fines. The provision, said Mr. Schumer, "ensures those who use violence to close clinics can't use bankruptcy as a shield."

But no anti-abortion protestor has ever succeeded in doing such a thing. Current law, which already prevents people from using bankruptcy to avoid paying fines related to violence, makes the Schumer rider redundant. The Senator's real targets aren't violent protestors of abortion but peaceful ones. And the unspecific language in his proposal—"physical obstruction," "force or the threat of force" and other pliable expressions for enterprising litigators—is a bald attempt to blur any legal distinction between the two. As it's written, vigils, sit-ins, picketing and other nonviolent activities could be interpreted as federal offenses.

We've seen this strategy from Mr. Schumer before. As a Congressman back in 1994, he suc-

cessfully navigated into law the Freedom of Access to Clinic Entrances Act. Like his current proposal, FACE uses vague terminology to group together violent and peaceful protests for

purposes of meting out federal punishment. Under FACE, a first-time offender convicted of "interfering with" or "intimidating" a clinic patron is subject to a \$10,000 fine and six months in jail. No doubt, when civil rights protestors occupied segregated lunch counters, they intimidated many. Still, the law managed to distinguish between civil disobedience and militancy.

All their talk about deterring violence notwithstanding, the Senator and his supporters are well aware that someone lunatic enough to bomb a building is unlikely to change his mind due to adjustments in the bankruptcy code. But someone planning to distribute adoption pamphlets outside a clinic, or participate in a prayer vigil on a public sidewalk, might very well have second thoughts if a civil fine could cost him his home.

Congress is set to revisit the issue when it returns next month. Mr. Schumer insists that he "is wholly committed to passing a bankruptcy bill." Don't believe it. If he were true to his word, he would remove his amendment, allow the bankruptcy bill to pass, and reintroduce his abortion provision as a separate piece of legislation.

But Democrats know that it's Republicans who are more likely to be blamed if bankruptcy reform dies. Watch for Mr. Schumer to keep his poison pill in place right through November and continue presenting his obstructionism as "a victory for women." It certainly won't hurt his fund raising.

Republicans, nonetheless, would be wise to wait him out. The issue here is not abortion so much as free speech. Using violent extremists as straw men, liberals are hoping to snatch a formidable tool of protest from the opposition. Their efforts should be resisted on principle.